

**APPLICATION FOR EXCEPTION TO THE NO CHILD LEFT BEHIND ACT**  
**1.0 PERCENT CAP ON PROFICIENT OR ABOVE SCORES**  
**BASED ON ALTERNATE ACHIEVEMENT STANDARDS**

Accountability under the No Child Left Behind (NCLB) Act for certain students with severe cognitive disabilities is based on performance on the *California Alternate Performance Assessment (CAPA)*. For calculating Adequate Yearly Progress (AYP), federal regulations have set a cap of 1.0 percent on the number of students in a local educational agency (LEA) whose scores can be counted as proficient or above based on an alternate assessment using alternate standards. This cap may be exceeded in cases where the LEA provides adequate justification to the state. Without an approved exception, proficient or advanced scores above the cap must be counted as not proficient in AYP calculations at both the LEA and school levels.

This application provides LEAs the opportunity to apply for an exception to the 2005-06 school year (2006 CAPA testing).

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**Authorization to Grant Exceptions**

The California Department of Education (CDE) is authorized to grant an exception to a LEA which would permit it to exceed the 1.0 percent cap in counting as proficient and advanced for school and LEA accountability the scores of students with the most significant cognitive disabilities based on alternate assessment. The state may grant an exception if the LEA's request is consistent with the conditions outlined in federal regulation Title 1, 34 CFR Part 200 section 200.13 paragraph (c)(2).

To be eligible for an exception to the 1.0 percent cap, the LEA must:

- Document that the incidence of students with the most significant cognitive disabilities exceeds 1.0 percent of all students in the grades assessed; and
- Describe the specific conditions that have resulted in the incidence of such students exceeding 1.0 percent of all students in the combined grades assessed.

**Small LEAs receive an automatic exception and do not need to complete this application.** A small LEA is defined as having: ten or fewer valid CAPA scores in a content area; OR five or fewer valid proficient and advanced CAPA scores in a content area.

## **Application Submission Information**

### Due Date

**Applications must be postmarked no later than August 4, 2006. Applications postmarked after August 4, 2006 will not be considered.**

### Applications must be sent to:

Assessment, Evaluation, and Support Unit  
Special Education Division  
California Department of Education  
1430 N Street, Suite 2401  
Sacramento, CA 95814  
ATTN: Deborah Malone, Application for Exception to 1.0 Percent Cap

Questions regarding this application and process may be directed to Holly Evans-Pongratz in the Assessment, Evaluation, and Support Unit at (916) 327-3702.

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**Application for Exception to 1.0 Percent Cap (please print)**

Local Educational Agency	
Mailing Address	
Name of Contact Person	(     ) Telephone Number
(     ) Fax Number	E-mail of Contact Person
Signature	Date

**Conditions for Application**

A LEA may submit an "Application for Exception to 1.0 Percent Cap" if it meets one or both of the following criteria. (Check those that apply.)

- ☐ The number of licensed children's institutions (LCIs) or other similar community or health organizations located within the LEA have resulted in a large percentage of students with the most significant cognitive disabilities.
  
- ☐ The LEA has very specialized programs for students with severe disabilities, resulting in a large number of students with the most significant cognitive disabilities in the LEA.

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**Application Narrative** (attach additional pages as necessary)

Describe the number and characteristics of the students with the most significant cognitive disabilities in the LEA.

Provide data on the number and types of LCIs or other community programs located in the LEA (such as the names and number of facilities and the numbers and descriptions of the students placed in such facilities) that result in a higher percentage of students with the most significant cognitive disabilities.

Provide data and a description of the unique specialized school programs for students with the most significant cognitive disabilities (e.g., programs that have drawn a large number of families of such students to reside in the LEA).

Your narrative **must** include:

- Name of the LEA
  - County/district (CD) code of the LEA
  - Detailed justification
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### **Assurances**

The signature of the school superintendent, or the chief administrative official in the case of a direct-funded charter school, on the application constitutes an assurance that the LEA is fully and effectively addressing the requirements of federal regulation Title 1, 34 CFR Part 200 Section 200.6 paragraph (a)(2)(iii).

- Establish clear and appropriate guidelines that are used to determine when a child's significant cognitive disability justifies the assessment based on alternate academic achievement standards.
- Ensure that parents are informed that their child will be assessed based on alternate achievement standards, including information about the implications of participation in the alternate assessment.
- Document that students with the most significant cognitive disabilities are, to the extent possible, included in the general curriculum and in assessments aligned with that curriculum.
- Disseminate information on and promote use of appropriate accommodations to increase the number of students with the most significant cognitive disabilities who are tested against grade-level academic achievement standards.
- Ensure that regular and special education teachers and other appropriate staff are knowledgeable about the administration of assessments, including making appropriate use of accommodations, for students with the most significant cognitive disabilities.

**Signature**

Name of Superintendent of Schools or Chief Administrative Official of Charter School (please print)	
Signature	Date

**For CDE Use Only**

Exception Granted: ☐ YES ☐ NO

IF YES, CAP PERCENTAGE

APPROVED: \_\_\_\_\_

TIME PERIOD OF EXCEPTION

APPROVED: \_\_\_\_\_

DATE OF APPROVAL: \_\_\_\_\_

SED AUTHORIZING

SIGNATURE: \_\_\_\_\_

SEND COPIES TO:

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**CDE Review of the Application For Exception**

The following elements **must** be included in the application:

- Documentation submitted by the LEA regarding LCIs includes sufficient verifiable information, such as the names of the facilities and the numbers and descriptions of the students placed in such facilities.
- Documentation submitted by the LEA regarding specialized education programs that attract large numbers of students with the most significant cognitive disabilities is credible and persuasive and describes the characteristics and the numbers of students served in such programs.
- Submission of a complete application, which includes the **original signature** of the Superintendent of Schools.

**CAPA 1.0 PERCENT CAP:  
CRITERIA AND METHOD FOR MEETING NCLB REGULATIONS FOR  
2006 AYP CALCULATIONS**

The purpose of this document is to describe the criteria and methodology for meeting the requirements of the federal No Child Left Behind (NCLB) regulations concerning alternate assessment in determining Adequate Yearly Progress (AYP) based on 2006 statewide testing. This document:

- Describes how the percentage is calculated for determining if a local educational agency (LEA) is above the 1.0 percent cap requirements; and
- Explains how alternate assessment scores that exceed the 1.0 percent cap at the LEA level will be reassigned and allocated among schools and subgroups in the LEA.

The Technical Design Group (TDG) for the Public Schools Accountability Act (PSAA) Advisory Committee considered several methodological approaches to this issue. The criteria and methodology described in this document are based on the TDG's recommendations provided at its January 2004 meeting.<sup>1</sup>

## **Background**

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The NCLB Act of 2001 requires that states determine AYP for every public school and LEA, based primarily on state assessment systems. Among the central provisions of the law are the requirements that all students, regardless of background, be included in the statewide assessment systems and that statewide assessments be aligned to the same high standards for all students.

On December 9, 2003, the U.S. Department of Education (ED) issued a set of final regulations pursuant to Title I of the NCLB. These regulations address the use of alternate achievement standards and alternate assessments for students with significant cognitive disabilities. The key points of these regulations are:

- The definition of “students with the most significant cognitive disabilities” from the earlier draft regulations is removed and will be determined by the state.
- For students with the most significant cognitive disabilities, states may establish alternate achievement standards and alternate assessments aligned to those standards for AYP.

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<sup>1</sup> The PSAA of 1999 (Chapter 3, Statutes of 1999) requires that the Superintendent of Public Instruction (SPI), with approval of the State Board of Education (SBE), develop an Academic Performance Index (API) to measure the performance of schools. The law also provides for an Advisory Committee to assist the SPI and the SBE in the creation of the Index. The Committee established a Technical Design Group (TDG), comprised of educational measurement specialists, to provide guidance on technical issues. The TDG reviewed the issues in this document at its January 2004 meeting.

- The scores of these students must be included in the AYP calculations.
- The proficient and advanced scores of these students may be based on the alternate achievement standards and included in the AYP, provided that the scores do not exceed 1.0 percent of all students in the grades assessed at a LEA or state.
- This 1.0 percent cap may be exceeded in cases where a LEA or state provides adequate justification. Without an approved exception, proficient and advanced scores above the 1.0 percent cap must be counted as not proficient in AYP calculations.
- For the proficient and advanced scores above the LEA 1.0 percent cap that are counted as not proficient, the state must include those non-proficient scores in the calculations of AYP in each applicable subgroup at the school, LEA, and state levels. States may not count those scores as proficient in determining AYP at the school, LEA, or state levels and may not count those scores as proficient in the subgroups to which they belong.
- States must inform parents of the actual academic achievement levels of their students.

The final regulations became effective January 8, 2004, for the 2004 AYP calculations.

In response to the federal requirements of the 1997 Individuals with Disabilities Education Act (IDEA) and the NCLB Act of 2001, California developed the *California Alternate Performance Assessment (CAPA)*, an alternate assessment for students with significant cognitive disabilities who are unable to participate in the general statewide assessments, even with accommodations or modifications. The *CAPA* was administered for the first time in the spring of 2003.

#### **HOW THE PERCENTAGE IS CALCULATED FOR DETERMINING IF A LEA IS ABOVE THE 1.0 PERCENT CAP REQUIREMENTS**

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Federal regulation Title1, 34 CFR Part 200 section 200.13 paragraph (c)(1)(ii) states that, “. . . a State . . . May include the proficient and advanced scores of students with the most significant cognitive disabilities based on the alternate academic achievement standards . . . provided that the number of those students who score at the proficient or advanced level on those alternate achievement standards at the LEA and at the State levels, separately, does not exceed 1.0 percent of all students in the grades assessed in reading/language arts and in mathematics.” Section 200.13 paragraph (c)(4)(i) further states that, “. . . the State must...include all scores of students with the most significant cognitive disabilities.”

**Method** - Based on these requirements, the percentage is calculated as the number of proficient and advanced scores on *CAPA* in a content area, less mobile students, divided by the STAR enrollment on the first day of testing, less mobile students. Mobile students are those who first enrolled in the LEA after the October CBEDS date of the school year in which testing occurred.

The following example shows how the percentage is calculated for determining if an LEA is above the 1.0 percent cap. (Note: the rate is calculated separately for English-language Arts [ELA] and for mathematics.)

### **Example of Method for Numerator and Denominator in Calculating *CAPA* Rate**

#### ELA Data

- 4960 students enrolled, first day of testing
- 60 mobile students enrolled, first day of testing
- 27 *CAPA* scores at proficient or advanced in ELA
- 5 mobile students with *CAPA* scores at proficient or advanced in ELA

#### Calculations

<b>Numerator</b>	<b>Denominator</b>	<b>Rate</b>
<b>Proficient and advanced on <i>CAPA</i>, less mobile students</b> Example: $27 - 5 = 22$	<b>STAR enrollment first day of testing, less mobile students</b> Example: $4960 - 60 = 4900$	<b>For ELA</b> $22 / 4900 = 0.448\%$

This example shows the rate for ELA only. The LEA in this example is below the *CAPA* 1.0 percent rate for ELA because 0.448 percent is less than 1.0 percent.

The numerator only includes those scores used in calculating the percent proficient or above, and the denominator includes all students in the grades assessed. There is no rounding in determining the proportion of test takers (i.e., 1.09 is not 1.1 and a proportion of a student would not be considered one student).

### **HOW ALTERNATE ASSESSMENT SCORES THAT EXCEED THE 1.0 PERCENT CAP AT THE LEA LEVEL WILL BE REASSIGNED AND ALLOCATED AMONG SCHOOLS AND SUBGROUPS IN THE LEA**

Federal regulation Title 1, 34 CFR Part 200 section 200.13 paragraph (c)(4)(ii) specifies that without an approved exception, proficient and advanced alternate assessment scores that exceed the LEA 1.0 percent cap must be counted as not proficient in the AYP calculations for the applicable schools, LEA, and the state. Two issues were considered in determining an optimal method for meeting these requirements. The first



issue was how to establish the most equitable method for “allocating” among the schools, and subgroups within those schools the number of scores that would need to be “reassigned,” (i.e., changed from proficient or advanced to not proficient for AYP calculations). Since the 1.0 percent cap is at the LEA level rather than the school level, decisions must be made about how many scores at each school and each subgroup should be reassigned.

The second issue was how to equitably identify the particular student records to be reassigned. This involves ensuring that reassigned scores are distributed as fairly as possible across students in a subgroup, school, and/or LEA. It should be noted that the reassignments are only applicable to AYP calculations at the school, LEA, and state levels and would not change the score a student receives.

**Method** - To reassign scores in a LEA that is above the 1.0 percent cap, the CDE reassigns the proficient and advanced scores in the “school district program” county/district/school (CDS) code by starting with the lowest scale score and continuing until the LEA is below the 1.0 percent cap. If any scores to be reassigned are remaining, the CDE allocates the number of reassignments to schools, based on percentage of proficient and advanced scores. Scores at each school are then reassigned by scale score, starting with the lowest score.

**No Effect on API Scores** - Reassignment of scores for AYP purposes will not affect scores used to calculate the Academic Performance Index (API).

A detailed example of the method for reassigning and reallocating CAPA scores that exceed 1.0 percent cap is shown on the following page.

## Example of Method for Reassigning and Reallocating CAPA Scores That Exceed 1.0 Percent Cap

### Example LEA: School District with "school district program" CDS code and five schools

10,000 enrollment first day of testing less mobile students

105 CAPA proficient and advanced less mobile students = 1.05% (105/10,000)

Five scores to be reassigned (i.e., changed from proficient or advanced to not proficient)

### Step 1: Reassign scores in school district program by lowest scale score

In this example, five students in the district program took the CAPA. One student scored proficient, one student scored advanced, and three students scored below proficient. The lowest proficient or advanced scale scores are reassigned first. In this example, these scores are reassigned to not proficient for AYP calculations (does not affect score student receives). In addition to the two scores reassigned in the district program, three more scores need to be reassigned at the school level in this district in order for the school district to be below the 1.0 percent cap. If the LEA has no district program, disregard Step 1 and go directly to Step 2.

District Program	CAPA Scale Score	
Student S	37	Reassign Student S from Proficient to Not Proficient
Student T	42	Reassign Student T from Advanced to Not Proficient

### Step 2: Determine reassignments in schools in the LEA

Determine school reassignments by the highest percentage of proficient and advanced scores across schools. In this example, School Z has the highest percentage of proficient and advanced scores and is allocated the third reassignment. Its percentage of proficient and advanced is recalculated. The next two reassignments are allocated in the same way. In this example, School Z needs to reassign two scores, and School Y needs to reassign one score in order for the school district to be below the 1.0 percent cap. If two or more schools have the same percentage of proficient and advanced scores, allocate reassignments according to CDS code, starting with the lowest CDS code.

	Enrollment 1st day, less mobile	CAPA Advanced and Proficient less mobile less District Program reassignments		3rd Score to be Reassigned: Allocate to School Z		4th Score to be Reassigned: Allocate to School Z		5th Score to be Reassigned: Allocate to School Y	
		n	%	B-1	recalc	B-1-1	recalc	B-1-1-1	recalc
School V	2,437	19	0.78%	19	0.78%	19	0.78%	19	0.78%
School W	4,879	37	0.76%	37	0.76%	37	0.76%	37	0.76%
School X	489	5	1.02%	5	1.02%	5	1.02%	5	1.02%
School Y	974	18	1.85%	18	1.85%	18	1.85%	17	1.75%
School Z	1,221	24	1.97%	23	1.88%	22	1.80%	22	1.80%
District	10,000	103	1.03%	102	1.02%	101	1.01%	100	1.00%

**Step 3: Reassign the school scores by lowest scale score**

In this example, School Z needs to reassign two scores. At this school, 15 students scored proficient, and 9 students scored advanced. Five of the 15 who score proficient are shown below. The lowest proficient or advanced scale scores are reassigned first.

Then do Step 3 for School Y.

	<i>CAPA Scale Score</i>	
Student F	35	<b>Reassign Student F from Proficient to Not Proficient</b>
Student G	36	<b>Reassign Student G from Proficient to Not Proficient</b>
Student H	37	
Student I	38	
Student J	40	

**Step 4: Recalculate AYP for all subgroups, schools, LEA, and the state**

**NOTE:** The scale score range of *CAPA* is 15-60; proficient and advanced scale score range is 35-60.